IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

Crl.MC.No. 2994 of 2007()

ST.51/2006 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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PETITIONER: ACCUSED

K.R.GOPINATHAN NAIR, PROPRIETOR,
K.V.M.SIDHA AYURVEDIC INDUSTRIES,
MEENUMKULAM, KAZHAKOOTTAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.K.R.VINOD

RESPONDENTS: COMPLAINANT & STATE

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1. P.BALAKRISHNAN NAIR, KRISHNA PRIYA,
T.C.15/2365, KUNNUKUZHY P.O.,
THIRUVANANTHAPURAM.

2. VIJAYALAKSHMY AMMA,
W/O.N.VIJAYAKUMARAN NAIR,
AMBADI, PRAGATHI GARDENS,
AATIPRA, KULATHUR, THIRUVANANTHAPURAM.

3. N.VIJAYAKUMARAN NAIR, AMBADI, PRAGATHI
GARDENS, AATIPRA, KULATHUR, THIRUVANANTHAPURAM.

4. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

R4 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2994 of 2007

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Dated this the 5th day of October, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. The petitioner has entered appearance before the learned Magistrate. It is submitted that he wants to raise a defence that the cheque was not handed over by the petitioner to the complainant for the discharge of any legally enforceable debt/ liability. He wants to urge a case that a blank signed cheque was handed over to another and that cheque is being made use of by the complainant. The petitioner wants the prosecution against him to be quashed. This is the sole ground. I have considered the plea. That is a defence which the petitioner must urge in the trial before the learned Magistrate. This court cannot consider and resolve those disputed questions in proceedings under Section 482 Cr.P.C.

2. The learned counsel for the petitioner submits that there is a counter case also pending before another court. The two cases are in the nature of a case and counter case. It is prayed that appropriate directions may be issued for the disposal of both cases by the same court.

3. It is for the petitioner to seek appropriate relief from appropriate court. I am not satisfied that in this Crl.M.C. direction to that effect need be issued. That prayer is not even made in this Crl.M.C.

3. This Crl.M.C. is accordingly dismissed.

(R. BASANT)
Judge

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